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**LOS ANGELES**

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/991,393	11/20/2001	Karen Gottlieb-Myers	SPFUN-58134	5400

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EXAMINER

MATHEW, FENN C

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 12/04/2002

*Response Due March 4, 2003*

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/991,393

Applicant(s)

GOTTLIEB-MYERS ET AL.

Examiner

Fenn Mathew

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11/20/2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the actuator must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

*see page 1  
in new 1-5*

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to because reference numeral 34 is not shown in the figures. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- 4* 4. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. In claim 1, the phrases "upper end" and "lower end" are not positively recited.

### *Claim Rejections - 35 USC § 103*

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6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1 and 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over White (U.S. Patent No. D316,280) in view of Wirges et al. (U.S. Patent No. 4,632,371). White discloses a pogo stick having a spring, a handle, disposed at the top of the spring, a platform, and an actuator disposed within the spring. White lacks bellows. Wirges teaches the use of bellows (32) in an analogous device to surround a spring rod. It would have been obvious to one having ordinary skill in the art at the time of invention to provide the spring of White with an encircling bellows, as taught by Wirges in order to provide protection to the spring from elements that could cause damage (Wirges column 6, lines 6-7).

8. Referring to claim 6, White discloses a pogo stick having a platform for receiving the feet of a user, an actuator extending above and below the platform, a handle, and a spring coupled at a position above the platform. White lacks bellows. Wirges teaches the use of bellows (32) in an analogous device to surround a spring rod. It would have been obvious to one having ordinary skill in the art at the time of invention to provide the spring of White with an encircling bellows, as taught by Wirges in order to provide protection to the spring from elements that could cause damage (Wirges column 6, lines 6-7).

9. Referring to claim 7, White, as modified by Wirges in claim 6, discloses the actuator, bellows and spring disposed in an aligned relationship.
10. Referring to claim 8, White as modified by Wirges in claim 6, discloses the bellows formed from a plurality of scalloped portions (see fig. 4), a helical spring, wherein the scalloped portions would inherently be coaxial with the spring, and wherein in the bellows and the spring are coupled to each other to provide a constraint.
11. Claims 2-5 and 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over White and Wirges as applied to claim 1 above, and further in view of Dimitriadis (U.S. Patent No. 2,992,009). The modified White device lacks training members, however, Dimitriadis discloses a bounce apparatus having training members (52). It would have been obvious to one having ordinary skill in the art at the time of invention to provide the modified White device with members, as disclosed by Dimitriadis in order to prevent the device from tipping over.
12. Referring to claim 3, White, as modified by Wirges and Dimitriadis above disclose the training members constituting a pair attached on opposite sides.
13. Referring to claim 4, the modified White device discloses training members attached at intermediate positions.
14. Referring to claim 5, the modified White device discloses the opposite ends of the training members in substantially the direction in which the user is facing, and the training members being made of a resilient material.
15. Referring to claim 9, the modified White device lacks training members, however, Dimitriadis discloses a bounce apparatus having training members (52). It would have

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been obvious to one having ordinary skill in the art at the time of invention to provide the modified White device with members, as disclosed by Dimitriadis in order to prevent the device from tipping over.

16. Referring to claim 10, White as modified above in claim 7, discloses the bellows formed from a plurality of scalloped portions (see fig. 4), a helical spring, wherein the scalloped portions would inherently be coaxial with the spring, and wherein in the bellows and the spring are coupled to each other to provide a constraint. The modified White device lacks training members, however, Dimitriadis discloses a bounce apparatus having training members (52). It would have been obvious to one having ordinary skill in the art at the time of invention to provide the modified White device with members, as disclosed by Dimitriadis in order to prevent the device from tipping over.

17. Claims 11-15 and 21-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over White (U.S. Patent No. D316,280) in view of Wirges et al. (U.S. Patent No. 4,632,371) and further in view of Dimitriadis (U.S. Patent No. 2,992,009). White discloses a pogo stick having a spring, a handle, disposed at the top of the spring, a platform, and an actuator disposed within the spring. White lacks bellows. Wirges teaches the use of constrainable means (32) in an analogous device to surround a spring rod. It would have been obvious to one having ordinary skill in the art at the time of invention to provide the spring of White with constrainable means, as taught by Wirges in order to provide protection to the spring from elements that could cause damage (Wirges column 6, lines 6-7). The modified White device lacks training members, however, Dimitriadis discloses a bounce apparatus having training members

(52). It would have been obvious to one having ordinary skill in the art at the time of invention to provide the modified White device with members, as disclosed by Dimitriadis in order to prevent the device from tipping over.

18. Referring to claim 12, the modified White device discloses training members that are removable. (Fastening members are used indicating that they can be removed.)

19. Referring to claim 13, the modified White device discloses training members made from a resilient material and attached at an intermediate position.

20. Referring to claim 14, the modified White device discloses the claimed invention except for the exact positioning of the training members. The feature would be a matter of obvious design choice within the range of one with ordinary skill in the art.

21. Referring to claim 15, inherently if the training member is forced down, the opposite ends of the training members would become separated by an increased distance.

22. Referring to claim 21, White discloses a pogo stick having a spring, a handle, disposed at the top of the spring, a platform, and an actuator disposed within the spring. White lacks bellows. Wirges teaches the use of constrainable bellows (32) in an analogous device to surround a spring rod. It would have been obvious to one having ordinary skill in the art at the time of invention to provide the spring of White with constrainable bellows, as taught by Wirges in order to provide protection to the spring from elements that could cause damage (Wirges column 6, lines 6-7). The modified White device lacks training members, however, Dimitriadis discloses a bounce apparatus having training members (52). It would have been obvious to one having

ordinary skill in the art at the time of invention to provide the modified White device with members, as disclosed by Dimitriadis in order to prevent the device from tipping over.

23. Referring to claim 22, the modified White device described above discloses training members constituting a pair extending generally in the direction which the user is facing with the user's feet on the platform and one disposed on one side of the platform.

24. Referring to claim 23, the modified White device as described in claim 21 discloses training members that are resilient and have a looped configuration.

25. Referring to claim 24, the modified White device inherently discloses that the opposite ends of the training members would flex outwardly when the pogo stick is actuated.

26. Referring to claim 25, the modified White device as described in claim 21 discloses training members that are resilient and have a looped configuration and inherently discloses that the opposite ends of the training members would flex outwardly when the pogo stick is actuated.

27. Referring to claim 26, the modified White device as described in claim 25 inherently discloses that if the training member is forced down, the opposite ends of the training members would become separated by an increased distance.

28. Claims 16-20 and 27-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over White (U.S. Patent No. D316,280) in view of Dimitriadis (U.S. Patent No. 2,992,009). Referring to claim 16, White discloses a pogo stick having a spring, a handle, disposed at the top of the spring, a platform, and an actuator disposed within



the spring (therefore making it actuatable). White lacks training members. Dimitriadis discloses a bounce apparatus having training members (52). It would have been obvious to one having ordinary skill in the art at the time of invention to provide the White device with members, as disclosed by Dimitriadis in order to prevent the device from tipping over.

29. Referring to claim 17, White as modified above discloses resilient training members.

30. Referring to claim 18, White, as modified above discloses training members having opposite ends capable of being disposed on a support surface with the training members being attached at an intermediate position.

31. Referring to claim 19, White, as modified by Dimitriadis above discloses a pair of training members capable of being coupled at a platform wherein the training members are removable.

32. Referring to claim 20, White, as modified by Dimitriadis above discloses training members having opposite ends capable of being disposed on a support surface, and wherein the training members are capable of being attached at an intermediate position to the platform, and wherein the training members are removable from the platform.

33. Referring to claim 27, White discloses a pogo stick having a spring, a handle, disposed at the top of the spring, a platform, and an actuator disposed within the spring (therefore making it actuatable) and the pogo stick maintaining contact with a support surface. White lacks training members. Dimitriadis discloses a bounce apparatus having training members (52). It would have been obvious to one having ordinary skill

in the art at the time of invention to provide the White device with members, as disclosed by Dimitriadis in order to prevent the device from tipping over.

34. Referring to claim 28, White, as modified by Dimitriadis above discloses training members that are comprised of inherently resilient rods capable of being attached to the bottom of the platform.

35. Referring to claim 29, White, as modified by Dimitriadis above discloses the training members disposed in a direction in which the user is facing when the user is disposed on the platform.

36. Referring to claim 30, White, as modified by Dimitriadis above discloses the training members constructed and disposed relative to the platform to become constrained upon actuation.

37. Referring to claim 31, White, as modified by Dimitriadis in claim 29 discloses the training members constructed and disposed relative to the platform to become constrained upon actuation.

### ***Conclusion***

38. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

DeSousa	U.S. Patent No. 4,243,218
Ottaway	U.S. Patent No. 3,855,979
Williams	U.S. Patent No. 3,328,028

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fenn Mathew whose telephone number is (703) 305-2846. The examiner can normally be reached on Monday - Friday 9:00am - 5:30pm.

The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

*gem*  
fcm  
November 27, 2002

**NICHOLAS D. LUCCHESI  
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